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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/564,912	01/17/2006	Johannis Friso Rendert Blacquiere	NL 030895	5335
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EXAMINER				
TRAN, THANG V				
ART UNIT		PAPER NUMBER		
2627				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/564,912

Applicant(s)

BLACQUIERE ET AL.

Examiner

Thang V. Tran

Art Unit

2627

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-10 is/are allowed.
- 6) ☒ Claim(s) 11 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/CD)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: ____
- Paper No(s)/Mail Date ____

Specification

1. The abstract of the disclosure is objected to because the abstract of the disclosure does not commence on a separate sheet in accordance with 37 CFR 1.52(b)(4). A new abstract of the disclosure is required and must be presented on a separate sheet, apart from any other text.

Claim Rejections - 35 USC § 112

2. Claim 11 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. The original specification fails to positively disclose what “**product**” is, and how a computer program is operated to cause a processor to perform the method as claimed in claim 10.

Claim Rejections - 35 USC § 101

3. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

4. Claim 11 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Claim 11 is drawn to a “computer program” *per se*, therefore, fail(s) to fall within a statutory category of invention.

A claim directed to a computer program itself is non-statutory because it is not:

A process occurring as a result of executing the program, or

A machine programmed to operate in accordance with the program, or

A manufacture structurally and functionally interconnected with the program in a

manner which enable the program to act as a computer component and realize its functionality, or

A composition of matter.

See MPEP § 2106.01. Data structures not claimed as embodied in computer readable media are descriptive material *per se* and are not statutory because they are not capable of causing functional change in the computer. See, e.g., *Warmerdam*, 33 F.3d at 1361, 31 USPQ2d at 1760 (claim to a data structure *per se* held nonstatutory). Such claimed data structures do not define any structural and functional interrelationships between the data structure and other claimed aspects of the invention, which permit the data structure's functionality to be realized. In contrast, a claimed computer readable medium encoded with a data structure defines structural and functional interrelationships between the data structure and the computer software and hardware components which permit the data structure's functionality to be realized, and is thus statutory. Similarly, computer programs claimed as computer listings *per se*, i.e., the descriptions or expressions of the programs are not physical "things." They are neither computer components nor statutory processes, as they are not "acts" being performed. Such claimed computer programs do not define any structural and functional interrelationships between the computer program and other claimed elements of a computer, which permit the computer program's functionality to be realized.

Allowable Subject Matter

5. Claims 1-10 are allowable over the prior art of record.
6. Claims 1-10 are allowable over the prior art of record because the prior art of record, considered alone or in combination fails to suggest or fairly teach a device for recording

information in blocks having logical addresses, comprising a combination of: recording means (22) for recording marks in a track on a record carrier representing the information, and control means (20) for controlling the recording by locating each block at a physical address in the track, the control means comprising addressing means (31) for translating the logical addresses into the physical addresses and vice versa in dependence on defect management information, defect management means (32) for maintaining the defect management information in defect managements areas, the defect management information including remapping information indicative for translating a logical address initially mapped to a physical address exhibiting a defect to an alternate physical address in a defect management area, continuous data detection means (33) for detecting a logically continuous address range of blocks of information, in particular real-time data like digitally encoded video, and defect management reorganizing means (34) for determining, via the defect management information, the physical addresses of remapped logical addresses in the logically continuous address range, and reorganizing the defect management information by remapping at least one of the remapped logical addresses to a different physical address for facilitating read-out of the remapped logical addresses in the logically continuous address range from a single defect management area, as recited in claim 1; or device for reading information in blocks having logical addresses, comprising a combination of: reading means (30) for reading marks in a track on a record carrier representing the information, control means (20) for controlling the reading by locating each block at a physical address in the track, the control means comprising addressing means (31) for translating the physical addresses into the logical addresses and vice versa in dependence on defect management information, the defect management information at least including remapping

information indicative for translating a logical address initially mapped to a physical address exhibiting a defect to an alternate physical address in a defect management area, and defect management reorganizing means (34) for determining, via the defect management information, the physical addresses of remapped logical addresses in a logically continuous address range, and reorganizing the defect management information by retrieving, from a single defect management area, a number of blocks from physical addresses corresponding to a number of remapped logical addresses in an address range in the logically continuous address range, buffering the number of retrieved blocks, and providing at least one of the retrieved blocks when a remapped logical address is to be read, as recited in claim 8, or a method of defect management for use in recording information in blocks having logical addresses, comprising a combination of steps: locating each block at a physical address in a track on a record carrier, translating the logical addresses into the physical addresses and vice versa in dependence on defect management information, and maintaining the defect management information in defect managements areas, the defect management information including remapping information indicative for translating a logical address initially mapped to a physical address exhibiting a defect to an alternate physical address in a defect management area, the method comprising detecting a logically continuous range of blocks of information, in particular real-time data like digitally encoded video, detecting, via the defect management information, the physical addresses of remapped logical addresses in the logically continuous address range, and reorganizing the defect management information by remapping at least one of the remapped logical addresses to a different physical address for facilitating read-out of the remapped logical addresses in the logically continuous

address range from a single defect management area, as recited in claim 10. Claims 2-7 and 9 are allowable with their respective parent claim.

Cited References

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The references cited herewith relate to an optical recording/reproducing apparatus for a recording medium having management information recorded thereon and a controller for controlling the access of a recording/reproducing head based on the recorded management.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thang V. Tran whose telephone number is (571) 272-7595. The examiner can normally be reached on M-F 9:00AM-5:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Feild can be reached on (571) 272-4090. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Thang V. Tran/
Primary Examiner
Art Unit 2627